

DETAILED ACTION

1. The following is a non-final, first office action on the merits. Claims 1-33, as originally filed, are currently pending and have been considered below.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

1. Claims 1, 2, 4, 5-10, 12-15, and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Bednarek (US 6,965,868).

As per claim 1, Bednarek discloses a method of incentivising wireless device Use, comprising the steps of:

(a) informing a wireless subscriber of the terms of a reward program offered by a wireless carrier (See column 57, lines 65-67 and column 58, lines 1-5, which discusses Telepromo as the wireless sponsor that informs the user of the incentive program);

(b) obtaining an agreement between said wireless subscriber and said wireless carrier whereby said wireless subscriber agrees to participate in said reward program (See column 56, lines 30-35, which discusses the user being given the opportunity to accept the incentive program (for example, from Telepromo – telecom services));

(c) determining whether said wireless subscriber qualifies for one or more rewards based on said wireless subscriber's performance of said agreement to participate in said reward program (See column 72, lines 44-52, which discusses the customer's performance in terms of loyalty (for example, not shopping at a competitor's shop). This allows the customer to benefit from the reward of a rate charge reduction on their calls);

(d) calculating said rewards if said wireless subscriber qualifies for one or more rewards (See column 40, lines 15-25, which discusses the reward calculation for a continuous reward system); and

(e) recording said rewards in an account correlated with said wireless subscriber, if said wireless subscriber qualifies for one or more rewards (See column 62, lines 3-5, which discusses multiple applications of card accounts being combined into a single card to enhance the value of the card to consumers, and column 61, lines 48-50, which discusses the smart card could contain information concerning the participant's base redemption rate (reward, points, incentive, etc.), wherefrom said rewards are redeemable by said wireless subscriber according to said agreement to participate in said reward program (See column 63, lines 59-65, which discusses the smart card/electronic wallet of the PDA being used to pay for goods and services remotely).

As per claim 2, Bednarek discloses the step of informing a wireless subscriber of the terms of a reward program offered by a wireless carrier is performed by a retailer (See Fig 9-1, which shows that ipromo Bank (the retailer) that presents the customer with the option of selection Telpromo – Telecom Services as the wireless carrier that is offering the reward program).

As per claim 4, Bednarek discloses the step of advising said wireless subscriber of the rewards for which said wireless subscriber qualified (See column 56, line 31, which discusses the customer being advised of the details of the incentive).

As per claim 5, Bednarek discloses that the rewards have a monetary value (See column 61, lines 48-50, which discusses the smart card could contain information concerning the participant's base redemption rate (rewards, points, incentives, etc.) and column 73, line 13, which discusses the smart card can store a digital code representing a monetary value).

As per claim 6, Bednarek discloses (a) said rewards have a monetary value (See column 61, lines 48-50, which discusses the smart card could contain information concerning the participant's base redemption rate (rewards, points, incentives, etc.) and column 73, line 13, which discusses the smart card can store a digital code representing a monetary value); and
(b) the step of recording said rewards includes the recording of said rewards on a debit card (See column 61, lines 44-50, which discusses the smart card/debit card and its ability to contain the basic redemption rate for that customer); and further comprising

the step of providing said debit card to said wireless subscriber (See column 61, lines 44-45, which discusses the smart card being imbedded in the PDA).

As per claim 7, Bednarek discloses that the reward program provides that said wireless subscriber qualifies for rewards by paying for the use of wireless services (See column 32, lines 53-55, which discusses rewards for use of the personal communication (wireless) device).

As per claim 8, Bednarek discloses that the reward program provides that said wireless subscriber qualifies for rewards by subscribing for the use of wireless services (See column 57, lines 65-67 and column 58, lines 1-5, which discusses Telepromo as the wireless sponsor that informs the user of the incentive program for subscribing to their service).

As per claim 9, Bednarek discloses that the reward program provides that said wireless subscriber qualifies for rewards by receiving electronic data intended for display or presentation from a vendor via a wireless device (See column 72, lines 60-61, which discusses the user being able to earn points or increase a variable redemption rate by reviewing advertisements or other information).

As per claim 10, Bednarek discloses that the reward program provides that said wireless subscriber qualifies for rewards by receiving electronic data intended for display or presentation from a vendor via a wireless device (See column 72, lines 60-61, which discusses the user being able to earn points or increase a variable redemption rate by reviewing advertisements or other information) and wherein said wireless device is a device selected from the group consisting of cellular phones, personal data

assistants, and end-to-end wireless e-mail solutions (See column 65, lines 7-8, which discusses personal digital communication devices, such as digital cellular phones).

As per claim 12, Bednarek discloses that the reward program provides that said wireless subscriber qualifies for rewards by receiving electronic data intended for display or presentation from a vendor via a wireless device (See column 72, lines 60-61, which discusses the user being able to earn points or increase a variable redemption rate by reviewing advertisements or other information over the personal communication device (wireless)) and further comprising the step of transmitting electronic data to said wireless subscriber via a wireless device (See column 58, lines 19-20, which discusses the wireless service of Telepromo. See FIG. 9D also) wherein said step of transmitting occurs in relation to said wireless device reaching a predetermined geographic position (See column 67, lines 47-50, which discusses the user being able to select vendors in a particular category, and the system displays information pertaining to the appropriate vendor when the user is within the geographic location).

As per claim 13, Bednarek discloses a method of rewarding receipt of electronic data by a wireless device subscriber, comprising the steps of:

(a) obtaining an agreement from a wireless subscriber to receive electronic data via a wireless device (See column 72, lines 28-33, which discusses the user agreement to use a merchant sponsored personal electronic communication device which is co-branded with the sponsor's name 538 and include a "FIND" button 539, for example Telepromo);

(b) transmitting electronic data to said wireless subscriber via said wireless device (See column 72, lines 39-42, which discusses sponsors like STARBUCKS directing customers to their nearest location); and

(c) awarding points to said wireless subscriber based on said wireless subscriber's receipt of said electronic data (See column 72, lines 60-61, which discusses the user being able to earn points or increase a variable redemption rate by reviewing advertisements or other information).

As per claim 14, Bednarek discloses that the points have a monetary value (See column 61, lines 48-50, which discusses the smart card could contain information concerning the participant's base redemption rate (rewards, points, incentives, etc.) and column 73, line 13, which discusses the smart card can store a digital code representing a monetary value).

As per claim 15, Bednarek discloses (a) said points have a monetary value (See column 61, lines 48-50, which discusses the smart card could contain information concerning the participant's base redemption rate (rewards, points, incentives, etc.) and column 73, line 13, which discusses the smart card can store a digital code representing a monetary value); and

(b) the step of recording said rewards includes the recording of said rewards on a debit card (See column 61, lines 44-50, which discusses the smart card/debit card and its ability to contain the basic redemption rate for that customer); and further comprising the step of providing said debit card to said wireless subscriber (See column 61, lines 44-45, which discusses the smart card being imbedded in the PDA).

As per claim 17, Bednarek discloses the step of transmitting electronic data from said wireless carrier to said wireless subscriber via said wireless device (See column 57, lines 65-67 and column 58, lines 1-5, which discusses Telepromo as the wireless sponsor that informs the user to use Telpromo for all of their telcom services for \$50 per week) occurs in relation to said wireless device reaching a predetermined geographic position (See column 67, lines 47-50, which discusses the user being able to select vendors in a particular category, and the system displays information pertaining to the appropriate vendor when the user is within the geographic location).

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bednarek (US 6,965,868), in view of Sullivan (US 6,985,873).

As per claim 3, Bednarek discloses the step of informing a wireless subscriber of the terms of a reward program offered by a wireless carrier is performed by a retailer via a face-to-face communication with said wireless subscriber (See column 57, lines 65-67 and column 58, lines 1-5, which discusses Telepromo as the wireless sponsor that informs the user of the incentive program).

However, Bednarek fails to explicitly disclose that the information is performed by

a retailer via a face-to-face communication with the wireless subscriber.

Sullivan discloses a system and method for administering a brokerage rebate card program. Sullivan expressly teaches the face-to-face communication of reward program (See column 2, lines 30-33, which discusses system logic for applying a rebate that funds at least part of a transaction using a “face-to-face” brokerage system).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the promotion commerce system of Bednarek to include the face-to-face communication of reward programs as taught by Sullivan in order to maintain the human interface aspect of doing commerce in a networked economy.

3. Claims 11, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bednarek (US 6,965,868), in view of Treyz et al. (US 6,587,835).

As per claim 11, Bednarek discloses that the reward program provides that said wireless subscriber qualifies for rewards by receiving electronic data intended for display or presentation from a vendor via a wireless device and further comprising the step of transmitting electronic data to said wireless subscriber via a wireless device (See column 72, lines 60-61, which discusses the user being able to earn points or increase a variable redemption rate by reviewing advertisements or other information over the personal communication device (wireless)), wherein said step of transmitting occurs in relation to a schedule.

However, Bednarek fails to explicitly disclose that transmitting occurs in relation to a schedule.

Treyz et al. discloses a shopping assistance system with a handheld device. Treyz et al. expressly teaches transmission according to a schedule (See column 39, lines 33-36, which discusses the transmission of reminders such as restaurant reservations, movie tickets, etc.. These transmission reminders are shown in region 574 on screen 566 according to FIG. 50).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the promotion commerce system of Bednarek to include the scheduled transmission as taught by Treyz et al. in order to provide for timely receipt of information for items with a specified time limit such as restaurant reservations, store final sales, etc..

As per claim 16, Bednarek discloses the step of transmitting electronic data from said wireless carrier to said wireless subscriber via said wireless device occurs in relation to a schedule (See column 57, lines 65-67 and column 58, lines 1-5, which discusses Telepromo as the wireless sponsor that informs the user to use Telpromo for all of their telcom services for \$50 per week).

However, Bednarek fails to explicitly disclose that transmitting occurs in relation to a schedule.

Treyz et al. discloses a shopping assistance system with a handheld device. Treyz et al. expressly teaches transmission according to a schedule (See column 39, lines 33-36, which discusses the transmission of reminders such as restaurant reservations, movie tickets, etc.. These transmission reminders are shown in region 574 on screen 566 according to FIG. 50).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the promotion commerce system of Bednarek to include the scheduled transmission as taught by Treyz et al. in order to provide for timely receipt of information for items with a specified time limit such as restaurant reservations, store final sales, etc.

4. Claims 18, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spitzer (US 2001/0054066), in view of Ferber (US 2002/0032193).

As per claim 18, Spitzer discloses a method for transmitting information from signage to portable computing devices, comprising the steps of:

(a) obtaining an agreement from a wireless subscriber to receive electronic data from a vendor via a wireless device (See page 6, paragraph [0066], which discloses the user being informed of the setting as shown in FIG.7 where they can select (agree to) retrieve web content, see also FIG. 9 for agreement to retrieve coupons (electronic data));

(b) obtaining message space by said vendor from a wireless carrier (See page 5, paragraph [0060], which discusses three stores (vendors) displaying messages regarding the coupons they are offering, and page 6, paragraph [0074], which discusses that the coupon issuer web site is in communication with a communications network such as bell South (a wireless carrier));

(c) transmitting electronic data from said vendor to said wireless carrier (See FIG. 5, which shows the store database in communication with the wireless network (507, 508, 509, etc.);

(d) transmitting electronic data from said wireless carrier to said wireless subscriber via said wireless device (See FIG. 5, which shows the data flow from the wireless carrier, network 507, cellular switching station 508, to the PCMCIA card 510, to the local server 501, to the PDA 503);

However Spitzer fails to explicitly disclose:

(e) awarding points to said wireless subscriber based on said wireless subscriber's receipt of said electronic data.

Ferber discloses a system and method for transmission of advertising to wireless devices having (e) awarding points to said wireless subscriber based on said wireless subscriber's receipt of said electronic data (See page 3, paragraph [0028], which discusses points in a bonus program redeemable for products or services, entries in a sweepstakes, or any other compensation a user of a wireless device would accept in exchange for receiving advertising messages on the user's wireless device).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the commerce promotion system of Spitzer to include the points awarding system as taught by Ferber in order to provide points incentives to wireless subscribers.

As per claim 21, Spitzer discloses the step of transmitting electronic data from said wireless carrier to said wireless subscriber via said wireless device (See FIG. 5, which shows the data flow from a wireless carrier, network 507, cellular switching station 508, to PCMCIA card 510, to local server 501, to PDA 503 (wireless device))

occurs in relation to said wireless device reaching a predetermined geographic position (See page 8, paragraph [0085], which discusses the preference that the store be in the vicinity of the billboard from which the user retrieved the advertisement concerning the store in order to allow the user easy access to the store providing the advertised special).

5. Claims 19, 22-29, 31, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spitzer (US 2001/0054066), and Ferber (US 2002/0032193), and further in view of Bednarek (US 6,965,868).

As per claim 19, Spitzer and Ferber as modified for claim 18 discloses the elements of the claimed invention, but fails to explicitly disclose that the points have a monetary value.

Bednarek discloses a system and method for promoting commerce in a networked economy having points (See column 38, lines 41-44, which discusses the smart card containing information such as a participant's accumulated base points and column 73, line 13, which discusses the smart card can store a digital code representing a monetary value).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Spitzer and Ferber combination as modified for claim 18 to include points which have monetary value as taught by Bednarek in order to provide cash incentives to wireless subscribers.

As per claim 22, Spitzer discloses a method of rewarding receipt of electronic data by a wireless device subscriber, consisting essentially of the steps of:

(a) obtaining an agreement from a wireless subscriber to receive electronic data from a vendor via a wireless device (See page 6, paragraph [0066], which discloses the user being informed of the setting as shown in FIG.7 where they can select (agree to) retrieve web content, see also FIG. 9 for agreement to retrieve coupons (electronic data));

(b) obtaining message space by said vendor from a wireless carrier (See page 5, paragraph [0060], which discusses three stores (vendors) displaying messages regarding the coupons they are offering, and page 6, paragraph [0074], which discusses that the coupon issuer web site is in communication with a communications network such as bell South (a wireless carrier));

(c) transmitting electronic data from said vendor to said wireless carrier (See FIG. 5, which shows the store database (506) in communication with the wireless network (507, 508, 509, etc.);

(d) transmitting electronic data from said wireless carrier to said wireless subscriber via said wireless device (See FIG. 5, which shows the data flow from the wireless carrier, network 507, cellular switching station 508, to the PCMCIA card 510, to the local server 501, to the PDA 503);

However Spitzer fails to explicitly disclose:

(e) awarding points to said wireless subscriber based on said wireless subscriber's receipt of said electronic data.

Ferber discloses a system and method for transmission of advertising to wireless

devices having (e) awarding points to said wireless subscriber based on said wireless subscriber's receipt of said electronic data (See page 3, paragraph [0028], which discusses points in a bonus program redeemable for products or services, entries in a sweepstakes, or any other compensation a user of a wireless device would accept in exchange for receiving advertising messages on the user's wireless device).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the commerce promotion system of Spitzer to include the points awarding system as taught by Ferber in order to provide points incentives to wireless subscribers.

Spitzer also fails to explicitly disclose:

- (f) recording said points in an account correlated with said wireless subscriber; and
- (g) advising said wireless subscriber of said points awarded to said wireless subscriber.

Bednarek discloses a system and method for promoting commerce in a networked economy having:

- (f) recording said points in an account correlated with said wireless subscriber. (See column 62, lines 3-5, which discusses multiple applications of card accounts being combined into a single card to enhance the value of the card to consumers, and column 61, lines 48-50, which discusses the smart card could contain information concerning the participant's base redemption rate (reward, points, incentive, etc.)

and (g) advising said wireless subscriber of said points awarded to said wireless subscriber (See column 38, lines 41-47, which discusses the smart card containing information on the participant's accumulated reward points).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Spitzer and Ferber combination as modified above to include an account for recording points and a means for advising wireless subscribers of points awarded as taught by Bednarek in order to provide consumers with a user friendly and informative incentive system.

As per claim 23, Spitzer, Ferber and Bednarek as modified for claim 22 discloses the elements of the claimed invention, but fails to explicitly disclose that the points have a monetary value.

Bednarek discloses a system and method for promoting commerce in a networked economy having points that have a monetary value (See column 38, lines 41-44, which discusses the smart card containing information such as a participant's accumulated base points and column 73, line 13, which discusses the smart card can store a digital code representing a monetary value).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Spitzer, Ferber and Bednarek combination as modified for claim 22 to include points which have monetary value as taught by Bednarek in order to provide cash incentives to wireless subscribers.

As per claim 24, Spitzer, Ferber and Bednarek as modified for claim 22 discloses the elements of the claimed invention, but fails to explicitly disclose that:

- (a) the points have a monetary value, and
- (b) the step of recording said rewards includes the recording of said rewards on a debit card.

Bednarek discloses a system and method for promoting commerce in a networked economy having points that (a) have a monetary value. (See column 38, lines 41-44, which discusses the smart card containing information such as a participant's accumulated base points and column 73, line 13, which discusses the smart card can store a digital code representing a monetary value), and (b) the step of recording said rewards includes the recording of said rewards on a debit card. (See column 61, lines 44-50, which discusses the smart card/debit card and its ability to contain the basic redemption rate for that customer); and further comprising the step of providing said debit card to said wireless subscriber (See column 61, lines 44-45, which discusses the smart card being imbedded in the PDA).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the commerce promotion system of the Spitzer, Ferber and Bednarek combination as modified for claim 22 to include (a) points which have monetary value, (b) recording the rewards on a debit card, and providing the debit card to the consumer, as taught by Bednarek in order to provide the consumer with a convenient means of acquiring, keeping the points handy, as well as being able to use the debit card for cash.

As per claim 25, Spitzer discloses a method of rewarding receipt of electronic data by a wireless device subscriber, consisting essentially of the steps of:

(a) obtaining an agreement from a wireless subscriber to receive electronic data from a vendor via a wireless device (See page 6, paragraph [0066], which discloses the user being informed of the setting as shown in FIG.7 where they can select (agree to) retrieve web content, see also FIG. 9 for agreement to retrieve coupons (electronic data));

(b) obtaining message space by said vendor from a wireless carrier (See page 5, paragraph [0060], which discusses three stores (vendors) displaying messages regarding the coupons they are offering, and page 6, paragraph [0074], which discusses that the coupon issuer web site is in communication with a communications network such as Bell South (a wireless carrier));

(c) transmitting electronic data from said vendor to said wireless carrier (See FIG. 5, which shows the store database in communication with the wireless network (507, 508, 509, etc.);

(d) transmitting electronic data from said wireless carrier to said wireless subscriber via said wireless device (See FIG. 5, which shows the data flow from the wireless carrier, network 507, cellular switching station 508, to the PCMCIA card 510, to the local server 501, to the PDA 503); and

However Spitzer fails to explicitly disclose:

(e) awarding points to said wireless subscriber based on said wireless subscriber's receipt of said electronic data.

Ferber discloses a system and method for transmission of advertising to wireless

devices having (e) awarding points to said wireless subscriber based on said wireless subscriber's receipt of said electronic data (See page 3, paragraph [0028], which discusses points in a bonus program redeemable for products or services, entries in a sweepstakes, or any other compensation a user of a wireless device would accept in exchange for receiving advertising messages on the user's wireless device).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the commerce promotion system of Spitzer to include the points awarding system as taught by Ferber in order to provide points incentives to wireless subscribers.

Spitzer also fails to explicitly disclose:

- (f) recording said points in an account correlated with said wireless subscriber; and
- (g) advising said wireless subscriber of said points awarded to said wireless subscriber.

Bednarek discloses a system and method for promoting commerce in a networked economy having:

- (f) recording said points in an account correlated with said wireless subscriber. (See column 62, lines 3-5, which discusses multiple applications of card accounts being combined into a single card to enhance the value of the card to consumers, and column 61, lines 48-50, which discusses the smart card could contain information concerning the participant's base redemption rate (reward, points, incentive, etc.)

and (g) advising said wireless subscriber of said points awarded to said wireless subscriber (See column 38, lines 41-47, which discusses the smart card containing information on the participant's accumulated reward points).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus and method for transmitting signage to portable computing devices of Spitzer to include an account for recoding points and a means for advising wireless subscribers of points awarded as taught by Bednarek in order to provide consumers with a user friendly and informative incentive system.

As per claim 26, Spitzer, Ferber and Bednarek as modified for claim 25 discloses the elements of the claimed invention, but fails to explicitly disclose:

(a) said step of obtaining message space by said vendor from a wireless carrier comprises a third party facilitator obtaining message space from said wireless carrier and said third party facilitator in turn transferring said message space to said vendor; and

(b) said step of transmitting electronic data from said vendor to said wireless carrier comprises said vendor transmitting said electronic data to said third party facilitator who in turn transmits said electronic data to said wireless carrier.

Ferber discloses a system and method for transmission of advertising to wireless devices having

(a) said step of obtaining message space by said vendor from a wireless carrier comprises a third party facilitator obtaining message space from said wireless carrier

(See page 3, paragraph [0036], which discusses entity sponsored server 350 (third party facilitator), as it gets digital advertising rights (message space) over cellular network 322) and said third party facilitator in turn transferring said message space to said vendor (See page 3, paragraph [0035], which discusses advertiser computers 318 (vendors) being able to use the digital advertising provided (message space) by server 350 (3rd party) to send their advertising messages); and

(b) said step of transmitting electronic data from said vendor to said wireless carrier comprises said vendor transmitting said electronic data to said third party facilitator who in turn transmits said electronic data to said wireless carrier (See page 3, paragraph [0036], which discusses server 350 (3rd party facilitator) sending the digital content over the cellular network 322).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Spitzer, Ferber and Bednarek combination as modified for claim 25 to include a third party facilitator transferring message space to a vendor, and a third party facilitator in turn transmits electronic data to a wireless carrier as taught by Ferber in order to provide the wireless subscribers with a well managed and targeted set of advertisements that is more specific to their needs and desires.

As per claim 27, Spitzer discloses that the wireless device is a device selected from the group consisting of cellular phones, personal data assistants, and end- to-end wireless e-mail solutions (See page 7, paragraph [0077], which discusses user handheld devices 503, according to FIG. 5, PDAs being one example).

As per claim 28, Spitzer, Ferber and Bednarek as modified for claim 25 discloses the elements of the claimed invention, but fails to explicitly disclose that the points have a monetary value.

Bednarek discloses a system and method for promoting commerce in a networked economy having points with a monetary value.

(See column 38, lines 41-44, which discusses the smart card containing information such as a participant's accumulated base points and column 73, line 13, which discusses the smart card can store a digital code representing a monetary value).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Spitzer, Ferber and Bednarek combination as modified for claim 25 to include to provide cash incentives to wireless subscribers.

As per claim 29, Spitzer and Ferber as modified for claim 25 discloses the elements of the claimed invention, but fails to explicitly disclose that:

- (a) the points have a monetary value, and
- (b) the step of recording said rewards includes the recording of said rewards on a debit card.

Bednarek discloses a system and method for promoting commerce in a networked economy having points that (a) have a monetary value. (See column 38, lines 41-44, which discusses the smart card containing information such as a participant's accumulated base points and column 73, line 13, which discusses the smart card can store a digital code representing a monetary value), and (b) the step of

recording said rewards includes the recording of said rewards on a debit card. (See column 61, lines 44-50, which discusses the smart card/debit card and its ability to contain the basic redemption rate for that customer); and further comprising the step of providing said debit card to said wireless subscriber (See column 61, lines 44-45, which discusses the smart card being imbedded in the PDA).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Spitzer and Ferber combination as modified for claim 25 to include (a) points which have monetary value, (b) recording the rewards on a debit card, and providing the debit card to the consumer, as taught by Bednarek in order to provide the consumer with a convenient means of acquiring, keeping the offer (points, coupons handy), as well as being able to use the debit card for cash.

As per claim 31, Spitzer discloses the step of transmitting electronic data from said wireless carrier to said wireless subscriber via said wireless device occurs in relation to said wireless device reaching a predetermined geographic position (See page 8, paragraph [0085], which discusses the preference that the store be in the vicinity of the billboard from which the user retrieved the advertisement concerning the store in order to allow the user easy access to the store providing the advertised special).

As per claim 33, Spitzer discloses (a) the step of transmitting electronic data from said wireless carrier to said wireless subscriber via said wireless device occurs in relation to said wireless device reaching a predetermined geographic position (See

page 8, paragraph [0085], which discusses the preference that the store be in the vicinity of the billboard from which the user retrieved the advertisement concerning the store in order to allow the user easy access to the store providing the advertised special); and

(b) said wireless device is a device selected from the group consisting of cellular phones, personal data assistants, and end-to-end wireless e-mail solutions (See page 7, paragraph [0077], which discusses user handheld devices 503, according to FIG. 5, PDAs being one example).

6. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Spitzer (2001/0054066) and Ferber (US 2002/0032193), and further in view of Treyz et al. (US 6,587,835).

As per claim 20, Spitzer and Ferber as modified by claim 18 discloses the step of transmitting electronic data from said wireless carrier to said wireless subscriber via said wireless device (See FIG. 5, which shows the data flow from the wireless carrier, network 507, cellular switching station 508, to the PCMCIA card 510, to the local server 501, to the PDA 503) occurs in relation to a schedule.

However, the Spitzer and Ferber combination fails to explicitly disclose that transmitting occurs in relation to a schedule.

Treyz et al. discloses a shopping assistance system with a handheld device, which transmits according to a schedule (See column 39, lines 33-36, which discusses the transmission of reminders such as restaurant reservations, movie tickets, etc..

These transmission reminders are shown in region 574 on screen 566 according to FIG. 50).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Spitzer and Ferber combination to include the scheduled transmission as taught by Treyz et al. in order to provide for timely receipt of information for items with a specified time limit such as restaurant reservations, store final sales, etc..

7. Claims 30, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spitzer (2001/0054066), Ferber (US2002/0032193), and Bednarek (US 6,965,868), and further in view of Treyz et al. (US 6,587,835).

As per claim 30, Spitzer, Ferber and Bednarek as modified for claim 25 discloses the step of transmitting electronic data from said wireless carrier to said wireless subscriber via said wireless device (See FIG. 5, which shows the data flow from the wireless carrier, network 507, cellular switching station 508, to the PCMCIA card 510, to the local server 501, to the PDA 503) occurs in relation to a schedule. However, the Spitzer, Ferber and Bednarek as modified for claim 25 combination fails to explicitly disclose that transmitting occurs in relation to a schedule.

Treyz et al. discloses a shopping assistance system with a handheld device. Treyz et al. expressly teaches transmission according to a schedule (See column 39, lines 33-36, which discusses the transmission of reminders such as restaurant reservations, movie tickets, etc.. These transmission reminders are shown in region 574 on screen 566 according to FIG. 50).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Spitzer, Ferber and Bednarek combination as modified for claim 25 to include the scheduled transmission as taught by Treyz et al. in order to provide for timely receipt of information for items with a specified time limit such as restaurant reservations, store final sales, etc..

As per claim 32, Spitzer, Ferber and Bednarek as modified for claim 25 discloses (b) that the wireless device is a device selected from the group consisting of cellular phones, personal data assistants, and end- to-end wireless e-mail solutions (See page 7, paragraph [0077], which discusses user handheld devices 503, according to FIG. 5, PDAs being one example). However Spitzer, Ferber and Bednarek as modified for claim 25 combination fails to disclose:

(a) the step of transmitting electronic data from said wireless carrier to said wireless subscriber via said wireless device occurs in relation to a schedule.

Treyz et al. discloses a shopping assistance system with a handheld device. Treyz et al. expressly teaches transmission according to a schedule (See column 39, lines 33-36, which discusses the transmission of reminders such as restaurant reservations, movie tickets, etc.. These transmission reminders are shown in region 574 on screen 566 according to FIG. 50).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Spitzer, Ferber and Bednarek combination as modified for claim 25 to include the scheduled transmission as taught by

Treyz et al. in order to provide for timely receipt of information for items with a specified time limit such as restaurant reservations, store final sales, etc..

Conclusion

1. The prior art made of record and not relied upon is considered pertinent to the applicant's disclosure.

Tucciarone, Joel D. et al. (US 20030009385) discloses an electronic messaging system and method thereof.

Iannacci, Gregory F (US 20020062249) discloses a system and method for an automated benefit recognition, acquisition, value exchange, and transaction settlement system using multivariable linear and nonlinear modeling.

Kolls; H. Brock (US 6,604,085) discloses a universal interactive advertising and payment system network for public access electronic commerce and business related products and services.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney M. Henry whose telephone number is 571-270-5102. The examiner can normally be reached on Monday through Thursday from 7:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynda Jasmin can be reached on 571-270-3033. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3627

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Rmh

/Elaine Gort/

Primary Examiner, Art Unit 3627